

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:
Complaint of Judicial Misconduct

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*No. 06-19-90041
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judge”), pursuant to 28 U.S.C. § 351. The complaint alleges that an order entered by the subject judge exhibits bias against pro se litigants and improperly attacks the complainant’s character and mental fitness.

After conducting an initial review, the chief judge may dismiss a misconduct complaint as to which he concludes: (A) that the claimed conduct, even if it occurred, “is not prejudicial to the effective and expeditious administration of the business of the courts”; (B) that the complaint “is directly related to the merits of a decision or procedural ruling”; (C) that the complaint is “frivolous,” a term that applies to charges that are wholly unsupported; or (D) that the complaint “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings; see 28 U.S.C. § 352(a), (b).

An initial review of the record reveals that the complainant filed a civil action that was assigned to the subject judge. The subject judge dismissed the action, and certain defendants moved for sanctions against the complainant. The subject judge denied the motion for sanctions, finding that the complainant pursued her claims in good faith, “no matter how distorted her sense of reality may be.” The subject judge also expressed the view that any effective sanction would likely “be an undue burden on the First Amendment rights of a troubled, now pro se litigant.”

This misconduct complaint is subject to dismissal under Rule 11(c)(1)(A) as not alleging cognizable misconduct. Treating a litigant “in a demonstrably egregious and hostile manner” constitutes misconduct, see Rule 4(a)(2)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings, but the subject judge’s statements here fall far short of that standard. The overall tenor of the order denying sanctions is respectful, even sympathetic toward the complainant. The subject judge’s references to the complainant’s “trouble[s]” and “distorted . . . sense of reality” appear to have been made only to explain why her claims, although plainly meritless in the judge’s view, did not

warrant sanctions. No egregiousness or hostility is discernible in the subject judge's order.

To the extent that the complaint alleges bias on the part of the subject judge, it is subject to dismissal under Rule 11(c)(1)(C). See *also* 28 U.S.C. § 352(b)(1)(A)(iii). The allegation finds no support in the record.

Accordingly, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(A) & (C) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

/s/ R. Guy Cole, Jr.
Chief Judge

Date: April 9, 2020